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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,547	09/24/2004	Michael Poindexter	1644.01	5546
21901	7590	11/04/2004	EXAMINER	
SMITH & HOPEN PA 15950 BAY VISTA DRIVE SUITE 220 CLEARWATER, FL 33760			VANATTA, AMY B	
		ART UNIT	PAPER NUMBER	
		3765		

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/711,547	POINDEXTER ET AL.
	Examiner	Art Unit
	Amy B. Vanatta	3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 September 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 is rendered indefinite by the recitation "further comprising shoulder panels" which are formed of absorptive material. It is unclear whether these shoulder panels are the same shoulder panels which were previously recited in claim 1. If this is the case, the claim should be amended to more precisely claim this. If the shoulder panels of claim 5 are distinct, separate structures from the shoulder panels which were previously recited, the structural relationship between these shoulder panels and those of claim 1 should be further recited, because these additional shoulder panels are confusing. Likewise, the recitation in claims 6 "further comprising chest panels" is confusing, since chest panels were previously recited in claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace (US 2,857,599).

Wallace discloses a protective garment having an outer surface and an inner surface, including a back panel (see Fig. 2), a pair of shoulder panels extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (36; see Figs. 1-3), and a neck opening (26) as claimed. The garment has two chest panels (see Fig. 1) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening (28) between the chest panels; see Figs. 1 and 3. A fastener 34 is associated with at least one of the medial sides of the chest panels as claimed. The garment has shoulder panels and chest panels made of absorptive material (terry cloth; col. 2, line 47) as in claims 5 and 6.

5. Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Chadwick (US 2,258,946).

Chadwick discloses a protective garment having an outer surface and an inner surface, including a back panel (15), a pair of shoulder panels (18) extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (see Fig. 1), and a neck opening as claimed. The garment has two chest panels (16) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening between the chest panels (16); see Fig. 1. A

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fastener 24 is associated with at least one of the medial sides of the chest panels as claimed. The fastener is a tie which appears to be cloth, as in claim 3. The garment has shoulder panels and chest panels made of absorptive material (13) as in claims 5 and 6.

6. Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US 3,514,788).

Miller discloses a protective garment having an outer surface and an inner surface, including a back panel (11), a pair of shoulder panels (on either side of and including region of seams 17,18) extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (see Figs. 1 and 3), and a neck opening (21) as claimed. The garment has two chest panels (13,14) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening between the chest panels, and a fastener (16) associated with at least one of the medial sides of the chest panels as claimed. The fastener (16) is a zipper (see "slide fastener" disclosed in col. 2, line 37), as in claim 3. The garment has two sleeve panels (40,41) extending from the lateral end of an associated shoulder panel and back panel. Each sleeve panel extends partially over the user's upper arm, as in claim 2. It is noted that the sleeves extend completely around the arms, however the limitation of the sleeve "extending partially over the...upper arm" is met since such a structure is encompassed in the sleeve structure of Miller. Miller discloses shoulder

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panels and chest panels formed of an absorptive material (see shoulder and chest regions of absorbent layer 32; col. 3, lines 3-6), as in claims 5-6.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Huseth et al (US 5,848,439).

Huseth et al discloses a protective garment (100) having an outer surface and an inner surface, including a back panel, a pair of shoulder panels extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (see Fig. 1), and a neck opening as claimed. The garment has two chest panels (see Fig. 1) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening between the chest panels; see Fig.

1. A fastener (213) is associated with at least one of the medial sides of the chest panels as claimed. The fastener is disclosed as a hook and loop fastener (col. 3, lines 14-17), as in claim 3. The garment has two sleeve panels extending from the lateral end of an associated shoulder panel and back panel; see Fig. 1, showing the downwardly extending side regions over the upper portion of each arm which form the claimed sleeve panels, as in claim 2. The shoulder panels, chest panels, and sleeve panels are made of absorptive material (terry cloth; col. 1, lines 61-62) as in claims 5-7.

8. Claims 1-2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Brennish (US 2,794,985).

Brennish discloses a protective garment (11) having an outer surface and an inner surface, including a back panel (see Fig. 5), a pair of shoulder panels extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (see Figs. 4-5), and a neck opening as claimed. The garment has two chest panels (see Fig. 4) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening between the chest panels; see Fig. 4. A fastener (12,13) is associated with at least one of the medial sides of the chest panels as claimed. The garment has two sleeve panels extending from the lateral end of an associated shoulder panel and back panel; see Fig. 4, showing the downwardly extending side regions over the upper portion of each arm which form the claimed sleeve panels, as in claim 2. The shoulder panels, chest panels, and sleeve panels are made of absorptive material (terry cloth; col. 1, lines 61-62) as in claims 5-7.

9. Claims 1, and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Geniesse (US 5,572,740).

Geniesse discloses a protective garment having an outer surface and an inner surface, including a back panel (see back portion of flap 11), a pair of shoulder panels (see shoulder region of flap 11) extending from the upper edge of the back panel, each shoulder panel having a medial end and a lateral end (see Fig. 2), and a neck opening as claimed. The garment has two chest panels (see front portions of flap 11) each having a medial and lateral side and depending from the shoulder panels as claimed. There is a longitudinal opening between the chest panels; see Fig. 2. A fastener 14 is

associated with at least one of the medial sides of the chest panels as claimed. Geniesse discloses that the fastener may be a hook and loop fastener (col. 3, line 10, as in claim 3. The garment has a fluid resistant layer (layer 16 on inner surface of flap 11), as in claim 4. The garment has shoulder panels and chest panels made of absorptive material (layer 15 on outer surface of flap 11) as in claims 5 and 6.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is 703-308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the
Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Amy B. Vanatta
Primary Examiner
Art Unit 3765